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July 12, 2016

VIA ECF AND ELECTRONIC MAIL

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408
Bernstein.chambers@nysb.uscourts.gov

Re: Picard v. Edward A. Zraick Jr., et al., Adv. Pro. No. 10-05257 (SMB);
Adversary Proceedings Listed on Exhibit A to Notice of Motion for an Order Authorizing
the Deposition of Bernard L. Madoff (Case No. 08-01789, Dkt. No. 13603-1)

Dear Judge Bernstein:

We are counsel to Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* and the estate of Bernard L. Madoff. We write in response to (i) the July 7, 2016 motion filed by Helen Davis Chaitman in connection with numerous adversary proceedings seeking an order permitting a second deposition of Bernard L. Madoff (the “Chaitman Motion”); and (ii) the July 11, 2016 letter submitted by Hunton & Williams LLP in *Picard v. Zraick*, Adv. Pro. No. 10-05257, requesting permission to file a similar motion for leave to also depose Mr. Madoff (the “Zraick Letter”).

The Trustee objects to any additional depositions of Mr. Madoff for reasons that the Trustee will articulate in his opposition that will be filed to the Chaitman Motion. As the Court is aware, Ms. Chaitman has already deposed Mr. Madoff in connection with the “profit withdrawal” issue. In addition, defendants in *Picard v. Zraick* now seek to depose Mr. Madoff on issues similar to those articulated in the Chaitman Motion. We further note that, since the first deposition, other defendants represented by law firms commonly known as the “joint-defense group” have requested access to the restricted transcript and have suggested that they too may seek the Court’s permission to depose Mr. Madoff.

In light of the Zraick Letter, as well as the substantial likelihood that other defendants, including those represented by the joint-defense group, could soon submit similar letter requests

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in their respective adversary proceedings, the Trustee respectfully requests that any such motions, to the extent permitted by the Court, be consolidated with the Chaitman Motion and addressed by the Court in a coordinated fashion. To that end, the Trustee respectfully requests that the Chaitman Motion, currently scheduled to be heard on July 27, 2016, be adjourned until August 31, 2016, the Court's next omnibus hearing date. To the extent the Court grants the *Zraick* defendants and/or any other parties permission to file their motion, this would leave sufficient time for any such movants to coordinate their motions and will enable the Trustee to file a single opposition brief, thereby minimizing the burden on the Court in dealing with this issue.

Finally, and consistent with the above, to the extent the Court authorizes Mr. Madoff's deposition, the Trustee respectfully requests that a single deposition proceed in a coordinated fashion with lead counsel for the defendants selected.

Respectfully submitted,

/s/ Nicholas J. Cremona

Nicholas J. Cremona
Partner

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